



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	10/029,876	FILING DATE	12/31/2001	FIRST NAMED INVENTOR	Scot Kevin Huber	ATTORNEY DOCKET NO.	022650-687	CONFIRMATION NO.	4296
-----------------	------------	-------------	------------	----------------------	------------------	---------------------	------------	------------------	------

7590 01/15/2003

Mary Katherine Baumeister  
BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
P.O. Box 1404  
Alexandria, VA 22313-1404

EXAMINER	RAMSVER, ROBERT W
ART UNIT	1626
PAPER NUMBER	

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
--------------------	-------------	-----------------------	------------------

EXAMINER
----------

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

### OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

- ☒ Claim(s) 1-18 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-18 are subject to restriction or election requirement.

#### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

Restriction to one of the following inventions is required under U.S.C. 121:

- I. Claims 1-9, drawn to products, variously classified;
- II. Claims 10-14, drawn to processes, variously classified;
- III. Claims 15-18, drawn to processes, variously classified.

The above groups are identified as general areas.

Accordingly, as groups they are independent or distinct as the products of group I would be capable of preparation by more than one process as is evidenced by groups II and III, the group II and III process involve different reactants and reactions, product and process categories are statutorily recognized as being separate, and separate search considerations are involved. Moreover, to not restrict could result in a burden being placed on the examination of this application.

The above groups themselves are inclusive of patentably distinct subject matter. Accordingly, along with the election of one of the above groups the following action is also taken.

Claims 1, 10 and 15 are generic to a plurality of disclosed patentably distinct species comprising the various species as may be identified by a specific E (in the formulae in claim 1) and by specific reactants and specific reaction conditions covered by claims 11 and 15. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Upon the election of a single disclosed species, the Examiner for examination along with the elected species will identify a generic concept inclusive of the elected species.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

An attempt was made to present this requirement telephonically but did not result in an election being made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Ramsuer whose telephone number is 703-308-4534. The examiner can normally be reached on Tuesday-Thursday 9 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 703-308-4537. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3592 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Application/Control Number: 10/029,876  
Art Unit: 1626

Ramsuer/T.G.D.  
January 8, 2003

*Robert W. Ramsuer*  
Robert W. Ramsuer  
Art Unit 1626